

## **2009 DRAFTING REQUEST**

### **Senate Amendment (SA-SB288)**

Received: **09/24/2009**

Received By: **gmalaise**

Wanted: **09/25/2009**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement  
Children - TPR and adoption**

Extra Copies: **Anne Sappenfield, LC  
Laura Rose, LC**

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

#### **Pre Topic:**

No specific pre topic given

---

#### **Topic:**

Indian child welfare; technical corrections

---

#### **Instructions:**

See attached

---

#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/24/2009	wjackson 09/25/2009		_____			
/1	chanaman 09/29/2009	wjackson 09/29/2009	rschluet 09/25/2009	_____	sbasford 09/25/2009	sbasford 09/25/2009	
/2	chanaman 09/29/2009	wjackson 09/29/2009	mduchek 09/29/2009	_____	lparisi 09/29/2009	lparisi 09/29/2009	
/3			mduchek	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			09/29/2009 _____		09/29/2009	09/29/2009	

FE Sent For:

<END>

## 2009 DRAFTING REQUEST

### Senate Amendment (SA-SB288)

Received: 09/24/2009

Received By: gmalaise

Wanted: 09/25/2009

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Anne Sappenfield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - out-of-home placement  
Children - TPR and adoption

Extra Copies: Anne Sappenfield, LC  
Laura Rose, LC

Submit via email: YES

Requester's email: Sen.Jauch@legis.wisconsin.gov

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Indian child welfare; technical corrections

---

#### Instructions:

See attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/24/2009	wjackson 09/25/2009		_____			
/1	chanaman 09/29/2009	wjackson 09/29/2009	rschluet 09/25/2009	_____	sbasford 09/25/2009	sbasford 09/25/2009	
/2		1/3 WJ 9/29	mduchek 09/29/2009	_____	lparisi 09/29/2009	lparisi 09/29/2009	

MD 9/29  
WJ

FE Sent For:

**<END>**

## 2009 DRAFTING REQUEST

### Senate Amendment (SA-SB288)

Received: 09/24/2009

Received By: gmalaise

Wanted: 09/25/2009

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Anne Sappenfield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - out-of-home placement  
Children - TPR and adoption

Extra Copies: Anne Sappenfield, LC  
Laura Rose, LC

Submit via email: YES

Requester's email: Sen.Jauch@legis.wisconsin.gov

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Indian child welfare; technical corrections

---

#### Instructions:

See attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/24/2009	wjackson 09/25/2009		_____			
/1		/2 Wlj 9/29	rschluet 09/25/2009	_____	sbasford 09/25/2009	sbasford 09/25/2009	

FE Sent For:

MD 9/29  
<END>

**2009 DRAFTING REQUEST**

**Senate Amendment (SA-SB288)**

Received: **09/24/2009**

Received By: **gmalaise**

Wanted: **09/25/2009**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement  
Children - TPR and adoption**

Extra Copies: **Anne Sappenfield, LC  
Laura Rose, LC**

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Indian child welfare; technical corrections

---



**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	gmalaise	11 wlj 9/25			_____	_____	_____
----	----------	-------------	---	---	-------	-------	-------

FE Sent For:

<END>

## Malaise, Gordon

---

**From:** Sappenfield, Anne  
**Sent:** Thursday, September 24, 2009 3:19 PM  
**To:** Malaise, Gordon  
**Cc:** Kahn, Carrie; McGinnis, Cindy; Rose, Laura  
**Subject:** amdt request

Hi Gordon,

Please draft an amendment for Rep. Grigsby for AB 421 and for Sen. Jauch for SB 288 with the following:

- ✓ Go back to the prior language on the definition of "Indian parent" so non-Indian adoptive parents are not included in the definition.
- ✓ Also in that definition, strike "under s. 767.805" (the reference for acknowledging paternity) because, apparently, any form of acknowledgement is OK in a case involving an Indian child. (Per Mark Mitchell)
- ✓ On p. 21, line 19, strike "10" and substitute "15" to comply with ICWA timelines.
- ✓ Per Chris Dee's request (I think we talked about this last week), please cross-reference s. 48.415 (1) (intro.) in s. 48.31 (1) to make clear that the findings required in an Indian child's TPR proceeding may be made at the fact-finding or the dispositional hearing, depending upon whether the court makes partial summary judgment on the grounds.
- ✓ Mark M. thought there was a reference to a higher evidentiary standard for finding active efforts have been made in s. 48.31 (1). I can't find it, and I can't find it anywhere else. Does that ring a bell?

AB 421 is scheduled for an exec on Wednesday, so Cindy would like to have the amendment sometime tomorrow if possible. If not, could you let one of us know when to expect it? Thanks!!!

*Anne Sappenfield*  
Senior Staff Attorney  
WI Legislative Council  
(608) 267-9485

## Malaise, Gordon

---

**From:** Sappenfield, Anne  
**Sent:** Thursday, September 24, 2009 3:41 PM  
**To:** Malaise, Gordon  
**Subject:** RE: amdt request

Good. I guess Mark thought the bill inadvertently required beyond a reasonable doubt for active efforts in one place but, like I said, I couldn't see it anywhere. I thought I should have you double check, though. Thanks!!

Anne

---

**From:** Malaise, Gordon  
**Sent:** Thursday, September 24, 2009 3:40 PM  
**To:** Sappenfield, Anne  
**Subject:** RE: amdt request

Anne:

The evidentiary standard in s. 48.31 (1) for active efforts is clear and convincing evidence. That standard is also found in s. 48.028 (4) (d) 2. and (e) 2.

The beyond a reasonable doubt evidentiary standard in s. 48.31 (1) applies to serious damage, not to active efforts.

So, no, there is not a higher standard for active efforts in s. 48.31.

Gordon

---

**From:** Sappenfield, Anne  
**Sent:** Thursday, September 24, 2009 3:19 PM  
**To:** Malaise, Gordon  
**Cc:** Kahn, Carrie; McGinnis, Cindy; Rose, Laura  
**Subject:** amdt request

Hi Gordon,

Please draft an amendment for Rep. Grigsby for AB 421 and for Sen. Jauch for SB 288 with the following:

- Go back to the prior language on the definition of "Indian parent" so non-Indian adoptive parents are not included in the definition.
- Also in that definition, strike "under s. 767.805" (the reference for acknowledging paternity) because, apparently, any form of acknowledgement is OK in a case involving an Indian child. (Per Mark Mitchell)
- On p. 21, line 19, strike "10" and substitute "15" to comply with ICWA timelines.
- Per Chris Dee's request (I think we talked about this last week), please cross-reference s. 48.415 (1) (intro.) in s. 48.31 (1) to make clear that the findings required in an Indian child's TPR proceeding may be made at the fact-finding or the dispositional hearing, depending upon whether the court makes partial summary judgment on the grounds.
- Mark M. thought there was a reference to a higher evidentiary standard for finding active efforts have been made in s. 48.31 (1). I can't find it, and I can't find it anywhere else. Does that ring a bell?

AB 421 is scheduled for an exec on Wednesday, so Cindy would like to have the amendment sometime tomorrow if possible. If not, could you let one of us know when to expect it? Thanks!!!

Anne Sappenfield  
Senior Staff Attorney  
WI Legislative Council  
(608) 267-9485





State of Wisconsin  
2009 - 2010 LEGISLATURE

IN 9/24  
Wanted 9/25

LRBa0785/7  
GMM.....

WJ

SENATE AMENDMENT,  
TO 2009 SENATE BILL 288

At the locations indicated, amend the bill as follows:

✓ 1. Page 15, line 6: delete "a person" and substitute "an Indian person".

✓ 2. Page 15, line 9: delete "767.805 or" and substitute "767.805,".

✓ 3. Page 15, line 10: delete "state or" and substitute "state, or tribal law or custom to be the biological father or a person".

✓ 4. Page 21, line 19: delete "10" and substitute "15".

✓ 5. Page 48, line 10: delete "10" and substitute "15".

✓ 6. Page 49, line 3: delete "10" and substitute "15".

✓ 7. Page 51, line 10: after "1." insert ", unless partial summary judgment on the grounds for termination of parental rights is granted".

8. Page 62, line 1: delete "10" and substitute "15".

9. Page 85, line 11: delete "10" and substitute "15".

# Page 66, line 12: delete "10" and substitute "15".

1 ✓ **10.** Page 92, line 14: delete "10" and substitute "15".

2 ✓ **11.** Page 114, line 16: delete "10" and substitute "15".

3 ✓ **12.** Page 121, line 14: delete "10" and substitute "15".

4 ✓ **13.** Page 127, line 21: delete "a person" and substitute "an Indian person".

5 ✓ **14.** Page 127, line 24: delete "767.805".

6 **15.** Page 128, line 1: delete that line and substitute "767.805, a substantially  
7 similar law of another state, or tribal law or custom to be the biological father or a  
8 person adjudicated to be the biological".

9 ✓ **16.** Page 133, line 24: delete "10" and substitute "15".

10 ✓ **17.** Page 156, line 12: delete "10" and substitute "15".

11 ✓ **18.** Page 157, line 16: delete "10" and substitute "15".

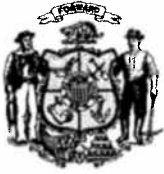
12 ✓ **19.** Page 167, line 16: delete "10" and substitute "15".

13 ✓ **20.** Page 169, line 15: delete "10" and substitute "15".

14 ✓ **21.** Page 175, line 9: delete "10" and substitute "15".

15 (END)

# Page 179, line 15: delete "10" and substitute "15".



State of Wisconsin  
2009 – 2010 LEGISLATURE

Today

2  
LRBa0785/✓  
GMM:wlj:rs  
↑  
stays

SENATE AMENDMENT ,  
TO 2009 SENATE BILL 288

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 15, line 6: delete "a person" and substitute "an Indian person".

3 **2.** Page 15, line 9: delete "767.805 or" and substitute "767.805.".

4 **3.** Page 15, line 10: delete "state or" and substitute "state, or tribal law or  
5 custom to be the biological father or a person".

6 **4.** Page 21, line 19: delete "10" and substitute "15".

7 **5.** Page 48, line 10: delete "10" and substitute "15".

8 **6.** Page 49, line 3: delete "10" and substitute "15".

9 **7.** Page 51, line 10: after "1." insert ", unless partial summary judgment on the  
10 grounds for termination of parental rights is granted".

11 **8.** Page 62, line 1: delete "10" and substitute "15".

12 **9.** Page 66, line 12: delete "10" and substitute "15".

**(END)**

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa0784/2ins

*use this  
insert*

1           Insert 2-5

2           ~~#~~ Page 122, line 8: delete "the Indian" and substitute "~~the~~ an Indian".

3           ~~#~~ Page 122, line 9: delete "the Indian" and substitute "~~the~~ an Indian".

4           ~~#~~ Page 122, line 15: delete "the Indian" and substitute "~~the~~ an Indian".

5           ~~#~~ Page 122, line 16: delete "the Indian" and substitute "~~the~~ an Indian".

6           ~~#~~ Page 126, line 2: delete "the Indian" and substitute "an Indian".

7           ~~#~~ Page 126, line <sup>3</sup>~~2~~: delete "the Indian" and substitute "an Indian".

^



State of Wisconsin  
2009 - 2010 LEGISLATURE

TODAY

3  
LRBa0785/2  
GMM:wlj:md  
↑  
stays

SENATE AMENDMENT,  
TO 2009 SENATE BILL 288

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 15, line 6: delete "a person" and substitute "an Indian person".
- 3 **2.** Page 15, line 9: delete "767.805 or" and substitute "767.805,".
- 4 **3.** Page 15, line 10: delete "state or" and substitute "state, or tribal law or
- 5 custom to be the biological father or a person".
- 6 **4.** Page 21, line 19: delete "10" and substitute "15".
- 7 **5.** Page 48, line 10: delete "10" and substitute "15".
- 8 **6.** Page 49, line 3: delete "10" and substitute "15".
- 9 **7.** Page 51, line 10: after "1." insert ", unless partial summary judgment on the
- 10 grounds for termination of parental rights is granted".
- 11 **8.** Page 62, line 1: delete "10" and substitute "15".
- 12 **9.** Page 66, line 12: delete "10" and substitute "15".

✓ # Page 122, line 70 delete  $\checkmark$  10  $\checkmark$  and substitute  $\checkmark$  (a)  $\checkmark$   $\odot$   
 ✓ # Page 122, line 80 delete  $\checkmark$  10  $\checkmark$  and substitute  $\checkmark$  (b)  $\checkmark$   $\odot$

STET

10. Page 85, line 11: delete "10" and substitute "15".

11. Page 92, line 14: delete "10" and substitute "15".

12. Page 114, line 16: delete "10" and substitute "15".

13. Page 121, line 14: delete "10" and substitute "15"

STET

✓ # Page 122, line 80 delete both  $\checkmark$  and substitute both  $\checkmark$   $\odot$   
 14. Page 122, line 8: delete "the Indian" and substitute "the an Indian".

15. Page 122, line 9: delete "the Indian" and substitute "the an Indian".

✓ # Page 122, line 150 delete both  $\checkmark$  and substitute both  $\checkmark$   $\odot$   
 16. Page 122, line 15: delete "the Indian" and substitute "the an Indian".

17. Page 122, line 16: delete "the Indian" and substitute "the an Indian".

18. Page 126, line 2: delete "the Indian" and substitute "an Indian".

19. Page 126, line 3: delete "the Indian" and substitute "an Indian".

20. Page 127, line 21: delete "a person" and substitute "an Indian person".

21. Page 127, line 24: delete "767.805".

22. Page 128, line 1: delete that line and substitute "767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological".

23. Page 133, line 24: delete "10" and substitute "15".

24. Page 156, line 12: delete "10" and substitute "15".

25. Page 157, line 16: delete "10" and substitute "15".

26. Page 167, line 16: delete "10" and substitute "15".

27. Page 169, line 15: delete "10" and substitute "15".

28. Page 175, line 9: delete "10" and substitute "15".

✓ # Page 122, line 8: delete that line and substitute (b) As a person who is both eligible for membership in the an Indian tribe or band  $\odot$

